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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,711	01/18/2002	Stan Wojciak	LC-465	6319

7590 12/19/2003

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EXAMINER
BERMAN, SUSAN W

ART UNIT	PAPER NUMBER
1711	

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/050,711	Applicant(s) WOJCIAK, STAN
	Examiner Susan W Berman	Art Unit 1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 27 October 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-5 and 8-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5,8-19 and 21 is/are rejected.
- 7) Claim(s) 20 and 22-25 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

*Response to Amendment*

The rejection of claims 16-17 and 20-25 under 35 U.S.C. 112, second paragraph, is withdrawn in response to the Amendment filed 10-27-2003.

The rejections of claims as being anticipated by or obvious over Field et al (5,302,627) are withdrawn in response to amended claim 1 which recites specific fluorescein dyes. Field et al disclose anthraquinone dyes and azo dyes and teach using from 0 to 0.15 wt. % of a fluorescent dye. However, the only fluorescent dye mentioned is UVITEX OB. The fluorescein dyes recited in claim 1 are not mentioned.

The rejection of claims 20 and 22-25 as being anticipated by Neckers et al (5,606,171) is withdrawn. Neckers et al disclose a method for determining thickness, degree of cure and other properties of polymeric coatings or films using a fluorescent probe. However, xanthene dyes as now recite din claim 1 are not disclosed or suggested. Also, measuring cure of an adhesive when bonding two substrates is not mentioned.

*Response to Arguments*

Applicant's arguments filed 10-27-2003 have been fully considered but they are not persuasive. Trom et al clearly teach compositions comprising xanthene dyes recited instant claim 1 that impart a color to the acrylate-functional compositions that changes upon curing. With respect to those recited xanthene dyes not specifically mentioned by Trom et al, it is expected that one of ordinary skill in the art at the time of the invention would have immediately envisioned using these alternative species.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and

does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.  
See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 13, 18 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear whether applicant intends to claim a mixture of the (meth)acrylate components set forth or (meth)acrylate alternative components. It is suggested that each occurrence of "and" should be replaced with "or". Claims 13, 18 and 21 fail to further limit amended claim 1 or claim 15 or claim 20 since the fluorescein dyes are now recited in claim 1.

***Claim Rejections - 35 USC § 102 or § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5 and 8-19 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Trom et al (6,444,725). Trom et al disclose color-changing dental compositions that have an initial color prior to exposure to actinic radiation and a final color that is different from the initial color subsequent to the composition being exposed to actinic radiation. See column 3, line 51, to column 4, line 68, especially column 4, lines 63-68, column 5, line 42, to column 6, line 30, and column 10, lines 50-65. Particularly preferred dyes include Rose Bengal, Fluorescein, and several Eosin dyes and Dibromofluorescein (column 4, lines 63-67). Xanthene dyes or anthraquinone

dyes may be added as sensitizers (columnn 7, line 23, to column 8, line 11). Trom et al teach suitable colorants that include fluorescein and fluorescein derivatives as being particularly preferred (column 4, lines 63-67). Xanthene dyes and anthraquinone dyes as sensitizers are also taught. Thus Trom et al disclose compositions comprising the dyes set forth in instant claim 1.

Alternatively, It would have been obvious to one skilled in the art at the time of the invention to employ fluorescein or a fluroescein derivative, as taught by Trom et al. One of ordinary skill in the art at the time of the invention would have been motivated by a reasonable expectation of success because Trom et al teach that these colorants are particularly suitable. Trom et al clearly teach compositions comprising xanthene dyes recited instant claim 1 that impart a color to the acrylate-functional compositions that changes upon curing. With respect to those recited xanthene dyes not specifically mentioned by Trom et al, it is the examiner's position that one of ordinary skill in the art at the time of the invention would have immediately envisioned using these alternative species.

*Allowable Subject Matter*

Claim 20 and 22-25 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. Neckers et al '171, which is considered to be closest prior art to the method set forth in instant claim 20, does not teach or suggest a fluorescent dye selected from fluorescein and one of the fluoresein derivatives set forth in claim 1. Trom et al do not teach or suggest a method of detecting cure of an adhesive on a surface of a first article then contacted with the surface of a second article and exposed to cure conditions.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan W Berman whose telephone number is 571 272 1067. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 571 272 1078. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0661.

*Susan Berman*  
Susan W Berman  
Primary Examiner  
Art Unit 1711